

The following regulatory text is currently filed as OAL File Z-05-0712-14. This file is expected to be adopted at the Commission's September 30, 2005 meeting and filed with OAL for approval. In the event this file is approved first, the language listed with this notice will amend Section 163.1 to add the new language.

Section 163.1, Title 14, CCR is added under OAL File Z-05-0712-14, to read:

163.1 Herring Permit Transfer Fee

Notwithstanding Fish and Game Code Section 8552.7 the fee to transfer a herring permit is one thousand dollars (\$1000). The fees shall be deposited in the Fish and Game Preservation Fund and shall be expended for research and management activities to maintain and enhance herring resources pursuant to subsection 8052(a) of the Fish and Game Code.

NOTE

Authority: Section 8552.1 and 8553, Fish and Game Code.

Reference: Section 8552.1 and 8552.7, Fish and Game Code.

Section 163.1, Title 14, CCR is amended to read:

163.1 Herring Permit Transfers

(a) Definitions.

Individual means a single natural person.

Individually held means a permit that is not held by a partnership under Fish and Game Code Section 8552.6.

Permit means a valid entitlement issued pursuant to Fish and Game Code Section 8552, which has not been suspended or revoked, to take herring for roe purposes.

Family member means a spouse, natural child, adopted child or stepchild, whose relationship to the individual permit holder is evidenced by a certified copy of a marriage certificate, birth certificate, or adoption papers.

Fishing group means those platoons whose season is designated in Section 163(a) of these regulations.

Qualifying season means any three previous fishing seasons.

Trip settlement sheet means a document prepared after a vessel has completed a herring fishing season which displays the costs incurred, revenues received, profits paid out, and identifies the payees of such expenditures.

(b) Multiple permits. In the San Francisco Bay fishery, no person may ever hold, either individually or in partnership, more than a total of three permits, and/or more than one permit in any fishing group. The qualifying criteria identified in subdivision (c)(1) and (2) of this regulation only apply to multiple permits under this subdivision.

(c) Qualifying Criteria for multiple permits.

(1) The person already individually holds a permit (San Francisco Bay fishery only).

(2) The individual is a family member who otherwise qualifies for a permit.

(3) The individual fished (i) in any California herring roe fishery for at least one season, (ii) provided the documentation specified in subsection (f) below, and (iii) has held a valid California commercial fishing license for at least any three previous years.

(d) Documentation of Fishery Experience. A crew list submitted pursuant to subdivision 163(e)(2) of these regulations is insufficient evidence that an individual fished in a California herring roe fishery aboard a participating vessel. Actual working experience in the herring roe fishery is documented by any one of the following:

(1) A copy of a cancelled check in the individual's name AND a notarized copy of a trip settlement sheet showing the income earned while fishing aboard a vessel participating in any California herring roe fishery, OR

(2) A copy of the individual's State Franchise Tax return reporting income earned while fishing aboard a vessel participating in a California herring roe fishery, OR

(3) In cases of a substitution under Fish and Game Code Section 8554, a copy of a fish landing receipt submitted to the department with the individual's name, the individual's commercial fishing license number, and landing of roe herring reported on the landing receipt.

(e) Notice/application to transfer and transfer fee.

A transfer under this regulation does not require the notice to qualified point holders required by Fish and Game Code Section 8552.2. The permit holder must submit a notarized letter, signed by the permit holder, to the department's San Francisco Bay Area Marine Region office requesting transfer of the permit, identifying the individual to whom the permit is to be transferred, together with a copy of that individual's commercial fishing license and the documentation specified in subsection 163(f) below. Notwithstanding Fish and Game Code Section 8552.7 the fee to transfer a herring permit is one thousand dollars (\$1000). The fees shall be deposited in the Fish and Game Preservation Fund and shall be expended for research and management activities to maintain and enhance herring resources pursuant to subsection 8052(a) of the Fish and Game Code.

(f) The permit holder shall provide substantial evidence that the person to whom the permit is to be transferred of an actual physical working participation aboard the vessel supported by the submission of documents filed with the State Franchise Tax Board and supported by trip settlement sheets that demonstrate earning from that participation.

(g) Permit Renewal. Each permit individually held shall be separately renewed according to the procedures in Section 163 of these regulations.

(h) Appeals.

Any individual who is denied the transfer of a permit may appeal in writing to the department's San Francisco Bay Area Marine Region office not more than 60 days from the date of denial. The appeal shall describe the basis for the appeal and contain all supporting evidence. If the denial is sustained, the individual may appeal in writing to the commission within 60 days of the date of the department's decision.

NOTE

Authority: Sections 82252.1, 8552.3, 8553 Fish and Game Code.

Reference: Sections 8552.1, 8552.3, and 8552.7 Fish and Game Code.